

## REMARKS

Upon entry of the foregoing Amendment, claims 1, 3, 5, 11-12, 30, 34-41, 43, and 46-64 are pending in the application. Claims 1, 34, 38, 40, 49, 53, and 55-58 have been amended. No claims have been cancelled. Claims 59-64 have been newly added. Applicant believes that this Amendment does not add new matter. In view of the foregoing Amendment and the following Remarks, allowance of all the pending claims is requested.

### NEW MATTER OBJECTION

The Examiner has objected to Applicant's prior response filed on March 10, 2010 ("Prior Response") under 35 U.S.C. § 132(a) because Prior Response allegedly introduces new matter into the disclosure. In particular, the Examiner alleges that the feature reciting "a subset of the plurality of component parameters that have a greatest influence on the service parameter," which was added to the claims in Applicant's prior response, lacks verbatim support in Applicant's disclosure.

Applicant disagrees with the propriety of the Examiner's alleged basis for the new matter objection for at least the reason that 35 U.S.C. § 132(a) does not have an *in haec verba* requirement. Rather, 35 U.S.C. § 132(a) only requires that newly added claim features have express, implicit, or inherent support in the disclosure, wherein Applicant's disclosure at least implicitly or inherently supports the feature reciting that one or more data mining algorithms may discover "a subset of the plurality of component parameters that have a greatest influence on the service parameter." Nonetheless, solely to expedite prosecution of this application, Applicant has amended the claims to clarify that the data mining algorithms may discover "a subset of the plurality of component parameters that have a most influence on the service parameter," which has clear support Applicant's disclosure (e.g., page 68, lines 27-29).

Accordingly, for at least the reason that Applicant's original disclosure clearly describes the features that the Examiner alleges to lack verbatim support and therefore introduce new matter into the disclosure, the objection under 35 U.S.C. § 132(a) to Applicant's prior response is improper and should be withdrawn.

### **NON-STATUTORY DOUBLE PATENTING REJECTION**

The Examiner has rejected claims 1, 3, 5, 11-12, 30, 34-41, 43, and 46-58 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-23 of U.S. Patent No. 7,600,007 and claims 1, 3, 5, 11-12, 30, 34-41, 43, and 46-58 as allegedly being unpatentable over claims 1-23 of U.S. Patent No. 7,725,571.

Solely to expedite prosecution of this application, and without acknowledging the propriety of the alleged basis for the rejection, Applicant submits herewith timely filed Terminal Disclaimers to overcome these rejections. Furthermore, Applicant notes that filing a Terminal Disclaimer to obviate a rejection based on non-statutory double patenting does not constitute an admission that the rejection is proper. *See Quad Envtl. Tech. Corp. v. Union Sanitary Dist.*, 946 F.2d 870 (Fed. Cir. 1991).

### **REJECTION UNDER 35 U.S.C. § 103**

The Examiner has rejected claims 1, 3, 5, 11-12, 30, 34-41, 43, and 46-58 under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Patent No. 6,446,200 to Ball et al. ("Ball") in view of U.S. Patent No. 6,311,175 to Adriaans et al. ("Adriaans"). This rejection is improper and must be withdrawn for at least the reason that the references relied upon, either alone or in combination, fail to disclose, teach, or suggest each and every feature of the claimed invention.

More particularly, Ball and Adriaans, either alone or in combination, fail to disclose, teach, or suggest at least the combined features that include mapping a "plurality of component parameters monitored for [a] plurality of network components [that support a service to a] service parameter that represents the performance of the service," "executing . . . one or more data mining algorithms to discover a subset of the plurality of component parameters that have a most influence on the service parameter, wherein the discovered subset includes more than one of the plurality of component parameters having the most influence on the service parameter," and identifying a "function [that] includes a one-to-many mapping between the value for the service parameter and the subset of the plurality of

component parameters that have the most influence on the service parameter,” as recited in amended independent claim 1, for example.

Although the Examiner has conceded that Ball does not teach the foregoing features recited in amended independent claim 1, the Examiner alleges that Adriaans teaches executing one or more data mining algorithms to discover a subset of the plurality of component parameters that have a most influence on the service parameter and identifying a function that defines a relationship between the value for the service parameter and the subset of the plurality of component parameters that have the greatest influence on the service parameter. Applicant disagrees with the Examiner’s assessment for at least the reason that Adriaans generating a decision tree to analyze performance for a particular targeted system component, and therefore fails to disclose, teach, or suggest discovering a subset that includes more than of **“a plurality of component parameters”** that have the most influence on a service parameter, wherein the **“plurality of component parameters”** measure the performances of **“a plurality of network components”** that support a service.

In particular, whereas amended independent claim 1 recites various features that identify a function defining “a one-to-many mapping between the value for the service parameter and the subset [that includes more than one] of the plurality of component parameters that have the most influence on the service parameter,” Adriaans only appears to describe, at best, generating a decision tree that defines relationships between the value for a particular targeted system component and various parameters that measure the performance for that particular targeted system component. For example, Adriaans describes generating a decision tree with a particular targeted system component at a root node and “monitored values and their determined relation to the performance success or failure of **the target element**” (col. 10, lines 29-67). In other words, to the extent that the decision tree described in Adriaans defines relationships between a service parameter and values for component parameters that influence the service parameter, the service parameter described in Adriaans only represents the performance for one particular target element.

On the other hand, amended independent claim 1 recites various features that analyze “a plurality of component parameters” measuring performances for “a plurality of network

components” that support a service and execute data mining algorithms “to discover *more than one* of the plurality of component parameters having the most influence on the service parameter.” As such, whereas amended independent claim 1 includes features that analyze relative influences on a service parameter mapped to the performances for multiple network components that support the service, the decision tree described in Adriaans provides relative influences on a service parameter mapped to the performance for one particular network component targeted for analysis. Accordingly, for at least the reason that Adriaans does not describe techniques that can analyze performance measures for multiple network component parameters mapped to a service parameter that measures the performance for a service that multiple network components support, Adriaans fails to cure the foregoing deficiencies of Ball that the Examiner has acknowledged.

Furthermore, even assuming *arguendo* that the decision tree described in Adriaans could be used to distinguish multiple component parameters having the most influence on the service parameter from a plurality of component parameters mapped to the service parameter (which Applicant does not concede), Adriaans nonetheless fails to disclose, teach, or suggest then identifying “a function that defines . . . a one-to-many mapping between the value for the service parameter and the subset of the plurality of component parameters that have the most influence on the service parameter.” For example, to the extent that Adriaans describes generating a decision tree to represent relative influences that various monitored values have on the performance for a particular system component that the analysis targets, Adriaans does not describe further identifying a function that defines a one-to-many mapping between the performance for the particular targeted system component and a subset of the monitored values having the most influence on the performance for the particular system component.

Rather, Adriaans describes techniques that relate to using the relationships identified in the decision tree to determine how to increase or otherwise tune performance for the targeted system component. However, referencing the relationships in the decision tree to increase or tune performance for the targeted system component only relates, at best, to managing the components that support the service rather than identifying a function that can simplify techniques for determining “whether the service conforms to the agreed upon service

level identified in the service level agreement.” More particularly, in the system that Adriaans describes, the relationships derived from the decision tree do not result in a modification to the techniques that the system uses to determine “whether the service conforms to the agreed upon service level.” In other words, the inputs that the system receives to monitor whether the targeted system component performs acceptably would be the same regardless of whether the relationships in the decision tree are used to improve performance. In contrast, amended independent claim 1 recites various features that identify “a one-to-many mapping between the value for the service parameter and the subset of the plurality of component parameters that have the most influence on the service parameter.”

As such, rather than continuing to monitor all of the plurality of component parameters mapped to the service parameter, amended independent claim 1 recites various features whereby “whether the service conforms to the agreed upon service level may determined solely from “the subset of the plurality of component parameters” that have the most influence on the service parameter. Accordingly, for at least these reasons, Adriaans fails to disclose, teach, or suggest identifying “a function that defines a relationship between the value for the service parameter and the subset of the plurality of component parameters that have the most influence on the service parameter,” much less subsequently monitoring “the subset of the plurality of component parameters that have the most influence on the service parameter” and using the identified function to determine “whether the service conforms to the agreed upon service level . . . from the monitored subset of the plurality of component parameters.” For at least these reasons, Adriaans further fails to cure the foregoing deficiencies of Ball that the Examiner has acknowledged.

Accordingly, for at least the foregoing reasons, Ball and Adriaans, either alone or in combination, fail to disclose, teach, or suggest each and every feature of amended independent claim 1. The rejection is therefore improper and must be withdrawn.

Independent claim 40 has been amended to include features similar to those set forth in amended independent claim 1. Claims 3, 5, 11-12, 30, 34-39, 41, 43, and 46-58 depend from and add features to one of amended independent claims 1 and 40. Thus, the rejection of these claims is likewise improper and must be withdrawn for at least the same reasons.

**NEW CLAIMS 59-64**

As indicated above, the Examiner has failed to establish that Ball and Adriaans, either alone or in combination, disclose, teach, or suggest each and every feature of amended independent claims 1 and 40. New claims 59-64 depend from and add features to one of amended independent claims 1 and 40. Thus, newly added claims 59-64 are allowable over Ball and Adriaans for at least the same reasons discussed in further detail above.

## CONCLUSION


Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action. As such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: **September 13, 2010**

Respectfully submitted,

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